

**Board for Professional Engineers and Land Surveyors
Board Meeting Minutes
November 17 & 18, 2005**

**2535 Capitol Oaks Drive
Third Floor Conference Room
Sacramento, California 95833
(916) 263-2222**

Thursday, November 17, 2005

Board Members Present: Dale Wilson (Vice President), Gregg Brandow, Arthur Duffy, James Foley, Robert Jones, Richard Lyons, Millicent Safran, and Edward Yu

Board Members Absent: Cindy Tuttle (President), William Roschen, and Michael Welch

Board Staff Present: Cindi Christenson (Executive Officer), Gary Duke (Legal Counsel), Linda Schneider (Liaison Deputy Attorney General) Nancy Eissler (Enforcement Program Manager), Debbie Thompson (Budget Analyst), Tiffany Criswell (Enforcement Analyst), and Joanne Arnold (Assistant Executive Officer)

Public Present: See Attached

1. Roll Call to Establish a Quorum

The meeting was called to order by Vice President Wilson at 1:00 p.m. Roll call was taken, and a quorum was not established.

Vice President Wilson administered the Oath of Office to new Board Member Richard Lyons.

Mr. Yu arrived at 1:05 p.m., and Mr. Jones arrived at 1:25 p.m.

2. Public Comment

Mr. Patrick Tami, PLS-CLSA, thanked Ms. Christenson for attending CLSA Board meeting and discussing PLS examination issues.

Mr. Jeff Cours, CPIL spoke regarding the SEAOC proposal. Mr. Cours also wanted to know what information was available regarding the 1-800 Phone Line

and questioned why the pass rates are so low, is there a mismatch between schools and examinations. Mr. Cours also asked if there is an increase in examination population, would it decrease the enforcement ability due to budget issues.

5. Approval of Delinquent Reinstatements (Possible Action)

MOTION: Ms. Safran/Mr. Yu moved to approve the Delinquent Reinstatements as follows:

CIVIL

- 1. Mehrdad Afshar**
Reinstate applicant's civil license, having met all the requirements for reinstatement, including passing the Board's Laws and Regulations Examination.
- 2. Raycent Pak-Ping Chu**
Reinstate applicant's civil license once he takes and passes the Board's Laws and Regulations Examination and pays all delinquent and renewal fees.
- 3. James Xavier Kelley**
Reinstate applicant's civil license once he takes and passes the Board's Laws and Regulations Examination and pays all delinquent and renewal fees.
- 4. David Martin Pease**
Reinstate applicant's civil license once he takes and passes the seismic principles examination, the engineering surveying examination, the Board's Laws and Regulations Examination, and pays all delinquent and renewal fees.

ELECTRICAL

- 1. Joseph Daniel Davis**
Reinstate applicant's electrical license once he takes and passes the Board's Laws and Regulations Examination and pays all delinquent and renewal fees.

MECHANICAL

- 1. William Willcox**
Reinstate applicant's mechanical license once he pays all delinquent and renewal fees.

STRUCTURAL

- 1. David Kennett Forssen**

Reinstate applicant's structural license, having passed the Board's Laws and Regulations Examination, and has paid all delinquent and renewal fees.

VOTE: 7-0, motion carried. [Mr. Jones was not present for the vote.]

6. Comity and Temporary Authorization Applications (Possible Action)

MOTION: Mr. Foley/Ms. Safran moved to approve the Amended Handout Comity List.

VOTE: 7-0, motion carried. [Mr. Jones was not present for the vote.]

11. Enforcement (If Necessary)

Ms. Eissler reported on the Bulletin and Technical Expert article. Ms. Eissler stated that the response has been very good.

12. Legislative

a. Discussion of Legislation for 2005, including but not limited to AB 180, AB 226, AB 446, AB 861, SB 228, SB 246, and SB 752 (Possible Action)

Ms. Arnold reported that SB 228, the Board's Sunset Bill has been signed by the Governor and extends the Board's sunset date 2 years. She reported that SB 246, the Title Act Conversion, was made into a 2-year bill. Staff of the Assembly Business and Professions Committee is conducting meetings with interested parties, including representatives from the Board, to discuss the Title Act Conversion issues. Ms. Arnold reported that AB 446, which would have prohibited "gag orders" in civil settlement agreements and which the Board supported, was vetoed by the Governor because the Governor said it would not be good for the California economy.

b. Regulation Status Report
No report given.

13. Technical Advisory Committee Reports
(No Committee Meetings were held.)

a. Board Assignments to TACs (Possible Action)
No Board assignments.

b. Appointment of TAC Members (Possible Action)

MOTION: Mr. Duffy/Ms. Safran moved to reappoint Timothy D'Orazio, Martin Eskijian, and Denis Mulligan for a second term on the CE-TAC, term to expire June 30, 2007.

VOTE: 7-0, motion carried. [Mr. Jones was not present for the vote.]

MOTION: Mr. Duffy/Dr. Brandow moved to appoint Stanley Kulakow as a member of the CE-TAC, term to expire June 30, 2007.

VOTE: 7-0, motion carried. [Mr. Jones was not present for the vote.]

14. Liaison Reports (Possible Action)

a. ABET

Mr. Yu reported on ABET visit at UC Irvine which was the second interim visit to address issues from 2001 visit. Mr. Yu also met with Deans and Administration at the University.

Vice President Wilson explained ABET visits and the Board's role for the benefit of Mr. Lyons.

b. NCEES

1. Approval of Emeritus Members

Ms. Christenson reviewed Emeritus status for NCEES.

MOTION: Ms. Safran/Mr. Duffy moved to reappoint Mr. Fairfield, Mr. Shambeck, and Mr. Lazarian as emeritus members.

VOTE: 7-0, motion carried. [Mr. Jones was not present for the vote.]

2. Nomination for NCEES Awards

Ms. Christenson reviewed information in agenda regarding different awards. Since Mr. Fairfield received the Distinguished Service Award (DSA) in 2004, he might be eligible for DSA/SC.

MOTION: Ms. Safran/Dr. Brandow moved to submit Mr. Fairfield's name for the DSA/SC award if Mr. Fairfield is eligible.

VOTE: 7-0, motion carried. [Mr. Jones was not present for the vote.]

MOTION: Mr. Foley/Ms. Safran moved to submit Dr. Brandow's name for DSA.

VOTE: 6-0-1, Dr. Brandow abstained. [Mr. Jones was not present for the vote.]

c. Technical and Professional Societies

No report given.

15. President's Report

Vice President Wilson reported that he attended the Intelligent Transportation Systems conference.

16. Executive Officer's Report

1. Administration Report

a. Executive summary report

Ms. Christenson gave an update on the October 2005 examination statistics.

Ms. Christenson reported that Mr. Roschen is regrettably resigning from the Board. Ms. Christenson read the e-mail from Mr. Roschen.

3. Hearing on the Second Petition for Reduction of Penalty of Jayant L. Gandhi [NOTE: The hearing on this Petition will be held on Thursday, November 17, 2005, beginning at 1:30 p.m., or as soon thereafter as the matter may be heard.]

The hearing on the Second Petition for Reduction of Penalty of Jayant L. Gandhi was held.

Vice President Wilson advised that, following the hearing, the Board would meet in Closed Session and then recess until the next day. He advised that the results of Closed Session would be announced on Friday.

4. Closed Session – Administrative Adjudication [Pursuant to Government Code section 11126(c)(3)] [NOTE: This Closed Session will be held immediately following the hearing on the Petition.]

19. Closed Session – Personnel Matters, Examination Procedures and Results, Administrative Adjudication, and Pending Litigation (As Needed) [Pursuant to Government Code sections 11126(a) and (b), 11126(c)(1), 11126(c)(3), and 11126 (e)(1)]

b. Lawrence B. Karp v. Board for Professional Engineers and Land Surveyors, Court of Appeal First Appellate District, Division 3, Case No. A109241, (San Francisco Superior Court Case No. 402996)

Friday, November 18, 2005

Board Members Present: Cindy Tuttle (President), Dale Wilson (Vice President), Gregg Brandow, Arthur Duffy, James Foley, Robert Jones, Richard Lyons, Millicent Safran, and Edward Yu

Board Members Absent: Michael Welch

Board Staff Present: Cindi Christenson (Executive Officer), Gary Duke (Legal Counsel), Linda Schneider (Liaison Deputy Attorney General) Nancy Eissler (Enforcement Program Manager), Debbie Thompson (Budget Analyst), and Joanne Arnold (Assistant Executive Officer)

Public Present: See Attached

1. Roll Call to Establish a Quorum

The meeting was called to order by President Tuttle at 8:00 a.m. Roll call was taken, and a quorum was established.

Mr. Yu arrived at 8:10 a.m., and Mr. Jones arrived at 8:25 a.m.

19. Closed Session – Personnel Matters, Examination Procedures and Results, Administrative Adjudication, and Pending Litigation (As Needed) [Pursuant to Government Code sections 11126(a) and (b), 11126(c)(1), 11126(c)(3), and 11126 (e)(1)]

a. **Michael William Foster v. Board for Professional Engineers and Land Surveyors**, El Dorado Superior Court Case No. PC 20030492

20. Open Session to Announce the Results of Closed Session

Ms. Christenson reported that the Board discussed pending litigation as noticed, specifically Michael William Foster v. Board for Professional Engineers and Land Surveyors, El Dorado Superior Court Case No. PC 20030492, and Lawrence B. Karp v. Board for Professional Engineers and Land Surveyors, Court of Appeal First Appellate District, Division 3, Case No. A109241, (San Francisco Superior Court Case No. 402996).

Ms. Christenson reported that the Board approved the revised appeal scores of the April 2005 Professional Land Surveying Examination.

Ms. Christenson reported that the Board adopted the Stipulation regarding Peter Aleck Rockas and adopted the Proposed Decision regarding Michael Carlos Laroue.

- 21. Approval of Consent Items (Possible Action)**
(These items are before the Board for consent and will be approved with a single motion following the completion of Closed Session. Any item that a Board member wishes to discuss will be removed from the consent items and considered separately.)
- a. Approval of the Minutes of the September 2, 2005, Board Meeting
 - b. Approval of Candidates for Certification/Licensure (Based on Examination Results, Including Successful Appeals, Adopted in Closed Session)

MOTION: Ms. Safran/Vice President Wilson moved to approve the consent calendar.

VOTE: 7-0, motion carried.

- 2. Public Comment**
There was no public comment.

- 6. Comity and Temporary Authorization Applications (Possible Action)**
Mr. Nardini and Mr. Willet addressed the Board regarding their requests for Temporary Authorization.

MOTION: Dr. Brandow/Mr. Foley moved to approve a Temporary Civil Authorization for Matthew Nardini.

VOTE: 8-0, motion carried.

MOTION: Mr. Foley/Dr. Brandow moved to approve a Temporary Civil Authorization for Richard Willet.

VOTE: 9-0, motion carried.

Mr. Singal did not attend the Board meeting and his Temporary Authorization will be held until he can appear before the Board.

- 7. Board Committee Structure (Possible Action)**
A handout was provided of assignments.

8. Release of PLS Multiple Choice & Essay Questions (Possible Action)

Ms. Christenson presented issues. The Board is concerned with the pass rates and how to help candidates better prepare for the examination. CLSA, licensees, and candidates have been contacted regarding the problem, and all have said it would help if the Board would release some of the questions. Samples currently available are from the 1980's.

PMES recommended having SME develop sample problems to be released and then after the examination release information regarding common errors. PMES also said that they could release old multiple choice problems, but that may mislead candidates into thinking that the examination is multiple choice when it is all design.

Mr. Hart of CLSA, provided a handout. CLSA believes it's important to help develop new licensees through education and training and helping prepare for examinations. They want candidates to understand style and complexity of problems, but also need to understand grading plan and method of grading. CLSA plans to publish examination guidelines.

Dr. Brandow stated he prefers to release the April 05 examination, including grading plan. He stated the problem with pseudo examinations is that the candidates will complain that it wasn't like the real examination.

Ms. Christenson stated that the problem with the contract is that the bid was based on using existing problems as item bank and that we might have to amend contract, which is hard to do.

Vice President Wilson asked who would develop sample problems. Ms. Christenson stated that the SME's would do it in house.

Dr. Brandow asked how that is different for developing new examination.

Mr. Jones agrees with Dr. Brandow regarding releasing existing examination because developing new examination is the same as developing sample problems. Current process/examination isn't producing quantity or quality needed to sustain profession.

President Tuttle stated that there are two issues. First, does the Board believe releasing previous examination would help address problems with pass rate, and second, can it be done budget wise.

Mr. Foley stated that the Board has been looking at the issue of pass rates for a long time. There is a problem with repeat test takers dragging down pass rates. The Board should look at pass rates of 1st, 2nd, 3rd time test takers. However, does that justify releasing examination?

Mr. Lyons asked how CA pass rate compares to other states.

Mr. Hart stated that a comparison of other Western States was done, but their candidate population is so small it can't really be compared. There is concern with the future of providing surveying services to the public.

Mr. Lyons asked if the problem is the training and preparation for the examination or is it the examination itself.

Mr. Hart said that CLSA does provide examination preparation courses, but some of them are just about how to take tests.

Mr. Bockmiller, L.S., representing PECG, stated he was a grader in 2003/2004 and that he took the examination a few times to get his license. Mr. Bockmiller also stated that the examination that is given now is very different than it was when he took it and he believes that releasing the examination would be very helpful.

Dr. Brandow stated that it is possible to get sample examinations for most PE examinations, but not the PLS examinations.

Vice President Wilson asked if older examinations could be released.

Ms. Christenson stated that the examination really changed when we started giving the NCEES examination, so we only have a few problems.

MOTION: Mr. Foley/Mr. Lyons moved to release the most current examination at the time, contingent on approval of contract amendment to fund writing new problems by PMES.

Mr. Lyons asked why we have state specific examination, is it statute?

Dr. Brandow stated that it is expensive to develop sample problems and doesn't see difference in developing new examination.

Mr. Bockmiller recommends going to multiple choice examination.

Vice President Wilson stated that going with motion doesn't give anything to release for the April 06 examination.

Ms. Christenson stated that she is not sure where they are in development process.

VOTE: 8-1, Lyons nay, motion carried.

Mr. Hart stated that CLSA is going to develop sample examination. CLSA would also like the Board to consider joint publication with CLSA regarding examination guidelines.

Ms. Christenson reported that there could be legal issues with the appearance of the Board approving review courses.

President Tuttle stated that it is important to have support from the industry in expending funds for this.

Mr. Duffy appreciated CLSA and PECG for addressing the Board.

Ms. Christenson would like to provide critique and better diagnostics.

President Tuttle so directed.

9. SEAOSC Request for Board Assistance on Legislation (Possible Action)

a. Supervision of Construction

Mr. Adler, representing SEAOC, asked the Board to support the proposed change to “construction review” in certain sections of the Professional Engineers Act.

Dr. Brandow stated that the Board has discussed the term “supervision of construction” for many years, even discussed modifying definition. He stated that the Board should look at the legal ramifications before any changes are made.

Mr. Foley stated that the SE-TAC and CE-TAC should also review this.

President Tuttle directed staff, legal, and TACs to review the SEAOC proposal.

b. Exempt Structures

Mr. Adler advised that SEAOC will be reviewing this proposal from SEAOSC further and asked that the Board not consider it at this time.

10. Administrative

a. Pilot 1-800 Phone Line (Possible Action)

Ms. Thompson reported that Board staff has proposed implementation of a Board 1-800 toll free line. The proposal is in line with the Board’s Strategic Plan vision that states “consumers and licensees have access to comprehensive information through a wide range of technology and facilities.” The yearly long distance expense of the toll free line is projected to between \$5,000 to \$11,000. The lower estimate is based on

the Board's 2005 average inbound reception telephone calls over a 6-month period of time. The higher estimate assumes the incoming calls will increase with the availability of a toll-free line. No set up, installation and maintenance fees are required and DCA requires MCI be used as the provider.

MOTION: Mr. Yu/Mr. Duffy moved to approve the proposal on a one-year pilot project basis unless MCI requires the Board contract beyond a year. Also, an update of the toll-free calls will be included in the Board's Executive Report.

VOTE: 9-0, motion carried.

b. Administration of NCEES SE II & PLS Exams Twice Per Year (Possible Action)

Ms. Thompson outlined alternatives for adding a second Structural II (SE II) and Professional Land Surveyor (PLS) exam each fiscal year. Ms. Thompson reported that the Board could not currently increase the state-specific SE or the PLS exams because the development costs for a second exam would be too cost prohibitive and may require additional staffing. An additional second administration of the national SE II and PLS exam each FY would likely not increase the Board's expenses. This is because historical exam population data shows that increases to the number of exams given each FY does not increase the overall exam population each FY. Any increases to the exam population for national exams will increase the Board's costs because the national engineering exams currently cost \$125 to grade while the national SE II exam costs \$395 to grade. Ms. Thompson suggested that in the event the Board's expenses did increase for these additional exams, the Board could cut costs by elimination of the Enforcement Bulletin mail out. Board member consensus was that the Bulletin should not be cut but instead other areas should be cut.

MOTION: Dr. Brandow/ Vice President Wilson moved to approve the addition of the SE II exam for April 2006 and both the SE II and PLS exams each FY thereafter. In the event these additional exams increase the Board's expenses, other budgeted expenses will be cut (i.e., postage).

VOTE: 9-0, motion carried.

c. Fund Condition (Possible Action)

Ms. Thompson reported on changes included in the Board's fund condition dated October 27, 2005:

- Renewal revenue projection remains at \$5,705,000 and has not changed.
- Application revenue projection increased from \$3,352,000 to \$3,521,414.
- Actual reimbursements this FY increased to \$20,568.
- Proposed FY 2006-07 BCP expenses are \$46,000.
- The total revenue received through September 30, 2005 is \$874,233 higher than the total received last FY at this time.

Revenue for the Board's renewal fees will now level off each FY instead of spiking every fourth FY. This is because the number of licensees renewing should be more consistent with the switch to biennial renewals in FY 2003/04. After next FY, no more quadrennial licensee holders will exist all licenses will be biennial.

President Tuttle directed staff to look into the feasibility of sending a reminder notice right before the 3-year delinquency period starts.

d. Fiscal Year 2004/05 Budgets (Possible Action)

Ms. Thompson reported that the updated expenditure projection for FY 2004-05 is \$7,515,723 with a projected budget balance of \$265,277 for year end. However, since \$50,000 was already set aside for this possible increase, it didn't affect the Board's bottom line expense.

Ms. Thompson pointed out that \$177,000 of the Board's savings this FY will be converted into positions for next FY in the event the Board's proposed FY 2006-07 BCPs are approved into the budget act.

e. Fiscal Year 2006-07 Budget Change Proposals (BCPs)

- 1) Enforcement Staff Increase
- 2) Mail Clerk Position

Ms. Thompson reported that the Board's BCPs have been reviewed by Department of Finance. The BCPs will be further reviewed during the March/April 2006 Legislative Budget Hearings.

f. Publication Review

The Enforcement Bulletin was mailed in mid-October 2005. An updated copy of the Board's Publications Schedule was included in the Board long agenda. The next publication to be updated will be the Handbook of Laws and Rules schedule to be done in January 2006.

16. Executive Officer's Report

2. Personnel

a. New Hires

No report.

- b. **Vacancies**
No report.
3. **Enforcement/Examination/Licensing**
 - a. **College Outreach**
Ms. Christenson reported that Ms. Crawford went to University of Santa Clara and that we are receiving many requests.
 - b. **Report on Enforcement Activities**
No report.
 - c. **Report on Examination Activities**
Ms. Christenson reported on need to correct Special Civil test plan due to errors in data input by OER. Corrections cause changes in certain areas by 1-2% points. Test Plan will be used for the April 2006 examination. Would like to post test plan on web now.
4. **Publications/Website**
 - a. **Website Activity Statistics**
No additional report was given.
5. **Other**
 - a. **DCA update**
No report.
17. **Approval of Board Travel (Possible Action)**
No Board travel.
18. **Other Items Not Requiring Board Action**
Date of Next Board meeting: January 19 & 20, 2006, Monterey, CA
Ms. Christenson stressed the importance of Board members letting her know if they cannot make it to Board meetings due to quorum issues.

Ms. Christenson reported that social security numbers will be truncated in order to protect the privacy of licensees.
22. **Adjourn**
The Board adjourned at 10:40 a.m.

PUBLIC PRESENT

Tom Stout, CSPE/CLCPE

Jeff Cours, CPIL

Patrick Tami, CLSA

Lyn T. Bockmiller, PECG

Bob Hart, CLSA

Matthew J. Nardini

Mike Goulding

Richard Willet

Bob DeWitt, CELSOC

Steve Hao, CalTrans

Lee Adler, SEAOC